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# LAKE MICHIGAN YACHTING ASSOCIATION

SERVING

Illinois  
Secretary  
Federal Communications Commission  
1919 M Street NW  
Washington, DC 20554

Indiana

Michigan

Wisconsin

3 December 1993

Dear Secretary:

Please have reference to a proposal to increase the fee for marine VHF-FM radio licenses which Congress has authorized you to charge. This letter is in urgent opposition to this unconscionable 100% increase.

Such an increase will seriously affect the safety of boaters who will no longer avail themselves of a marine radio because a \$70 fee for its use is exorbitant; an increase of another \$35 over the currently high fee that was recently increased from zero. The fee at one time was \$5, a fee that seems fair and adequate to cover the costs of issuing such licenses to recreational boaters.

Experts in marine safety, i.e.-US Coast Guard Auxiliary and US Power Squadrons, recommend marine radios as primary safety devices. Marine radios are a link with shore, safety personnel, such as Coast Guard rescue boats, weather advisories and other boaters who can be summoned in an emergency. To add more than half the cost of a typical marine radio as a fee for its carriage will cause most boaters to leave those valuable safety devices off their boats.

Boaters are helping themselves reduce boating accidents and fatalities through volunteer safety courses with considerable success. By taking away a major safety device through what appears to be a money-raising licensing scheme is counter-productive and brings serious question as to the sincerity of the federal government in promoting boating safety.

I hope that you exercise your prerogative, as permitted by Congress, and waive the adoption of this negative fee that will surely cost lives and cause injury and heavy property damage by making boaters forego equipping their vessels with vitally important safety devices, marine two-way radios.

It would seem to me to be logical to assume that this money-raising scheme will cause fewer people to buy licenses and the money realized will be no more, or even less than is now collected from boaters who have marine radios. and rely on them as primary safety devices.

This plea is made on behalf of the approximately twenty thousand members of the 90-plus boat and yacht clubs that make up the Lake Michigan Yachting Association in Wisconsin, Illinois, Indiana and Michigan.

In the name of safety, I ask that you not impose this onerous fee increase.

Sincerely,

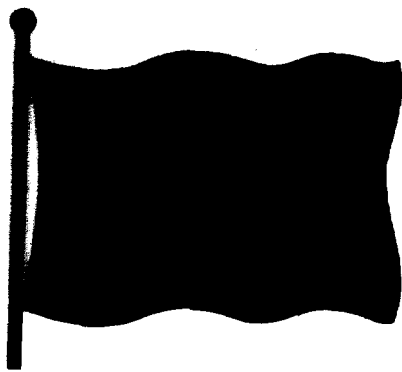
  
William D. Mitchelson

cc: Sen. Russ Feingold, Wisconsin  
Sen. Herb Kohl, Wisconsin  
Rep. Tom Barrett, Wisconsin

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# the LOOKOUT

2,000,000 INDIVIDUAL MEMBERS

Voice of the **NATIONAL BOATING FEDERATION**

P.O. Box 4111, Annapolis, Maryland 21403



Volume XXVII, No 6

November / December 1993

James B. Webster, Editor

## IN MEMORY OF

### SECRETARY - TREASURER JAMES D. FINCH

Funeral Services for NBF Secretary-Treasurer Jim Finch were held Saturday, Oct. 23, 1993 at Pond Creek Congregational Methodist Church in Alamo Tennessee. Jim had a serious heart condition for several years and died suddenly. Jim is survived by his wife, NBF Past President Eve; son Jim Jr.; stepson Erick Aherens; step-daughter Nichole Schwartz; two grandchildren; and two step-grandchildren.

Jim was a longtime boating activist, Commodore of the Chesapeake Bay Yacht Club Association in 1978, Past Commodore of Prince George's Yacht Club, CBYCA Legislative Liaison Officer for three years between 84 and 87 and member of Chesapeake Commodores Club. He tirelessly gave many hours to improve and protect recreational boating interests. We all have benefitted from his contributions, and will sorely miss his council.

## FCC PROPOSES TO DOUBLE RADIO LICENCE FEES.

The FCC plans to increase the radio licence fee for boaters and other mariners (ship station licence) from \$35 to \$70 for a five year licence or \$105 for a ten year licence. Ship station licenses are required on all vessels that carry a marine radio, a Radar, or an Emergency Position Indicating Radio Beacon (EPIRB). CONGRESS MANDATED THE INCREASE. Congress also authorized the FCC to waive the increase if, "such action would promote the public interest." Concerns have been raised that this fee increase will act as a disincentive for boaters and other non-compulsory radio equipped vessels. Failure to carry a marine radio aboard would be a major regression in boating safety. The FCC plans to release a notice of proposed rule making on the matter before the end of the year, but currently is only planning a 20 day comment period. Those wishing to comment should write at once to the Secretary, FCC, 1919 M Street NW, Washington D. C. 20554. When the rulemaking is released, a docket number will be identified which if known, should be included in the letter. If this number is not known, the letter should clearly indicate that it refers to planned FCC regulatory fees. The FCC secretary's office can be contacted at 202-632-6410.

## NBF FALL MEETING REPORT.

Saturday October 2ed., President Margot Brown opened our fall meeting at Capital Yacht Club (CYC) in Washington D. C. CYC Commodore "Dutch" vonEhrenfried welcomed NBF and was presented an NBF flag that he promptly hoisted on the CYC flagstaff where it proudly flew throughout our meetings. CBYCA Commodore Karl Homberg welcomed the delegates and announced CBYCA was hosting the attitude adjustment hour that evening. PRYCA, which provided the morning refreshments, was represented by Commodore Roby who extended their welcome.

Guest speakers included NBF Consultant Larry Innis; P/P Ernie Villaire, IOBG; Fred Messman, NASBLA; Marion Embody, NCA; Veronica Floyd, ALAB; RADM W. J. Ecker, USCG; and P/C Henry Pratt III, USCG Aux. Our own P/P Al Simon reported on the status of the search and certification of more comfortable PFD's. P/C Jack Lucey reported on both NASBLA's Long Term Planning Committee and USPS actions. Lastly Publicity Chairman Jim Webster reported on the impact of the 1990 Clean Air Act on the Washington DC area and on MARPOL progress. We thank everyone who participated in this productive session. Space does not permit including all the speaker's remarks, but several of the topics will be discussed in this and future issues.

NBF thanks CYC, CBYCA, and PRYCA for making such a pleasant meeting possible.

## USCG Boating Safety Advisory Council (BSAC) Meeting. Oct. 30-Nov. 2, 1993.

by PRESIDENT BROWN

Before going into the general and subcommittee sessions of BSAC, please pay particular attention to the notice of PROPOSED FEE DOUBLING for your VHF radio licence. Your comments are of utmost importance, stressing that recreational boating safety will be compromised by such an increase. EACH LETTER COUNTS! RADM Ecker, Chief Office of Navigational Safety, made it clear that, much as the Coast Guard may protest the doubled fee, the CG comment still counts as only one letter received!

The NBF now occupies two seats of the seven "public member" slots in BSAC. Past President Al Simon and I are serving on one or more of all current subcommittees, and attend all subcommittee sessions. Believe me, it's

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a working weekend.

The Multiple Waterway Use Committee enjoyed a relatively quiet session. The National Water Safety Congress has received a substantial CG grant to develop a survey of current multiple waterway uses. While the initial purpose of this study referred only to enclosed bodies of water (lakes, impoundments, etc.), the subcommittee insisted that commercial shipping such as occurs on our rivers, bays, and seashores, must be part of the report, even if time and grant funds must be extended another year.

The meeting of the Subcommittee for the Review of the National Transportation Safety Board Study was highly interactive. It might be said that "irreconcilable differences" continue to exist between the advocates of mandatory education and boater licensing, and those of us who oppose this, in our judgment, unnecessary layer of government intervention and expense.

There was broad agreement that drunken boat operators should be removed from our waterways; there was general agreement that children should be required to wear PFD's unless in an enclosed cabin aboard a recreational vessel. The recent Red Cross study, by the way, points out that 91% of children under 13 years of age already wear PFD's, attesting to their parents concern for their safety. It should also be pointed out that child boating fatalities are rare, whereas the majority of adult fatalities are directly attributable to falling overboard and capsizing without PFD wear.

Currently available statistics also indicate that those states that now require mandatory education and recreational boater licensing spend virtually none of their budget on boating safety education. To date no state has seen a diminution of accidents or fatalities since the imposition of mandatory education.

The question also arose whether the National Transportation Safety Board has any jurisdiction over recreational boating activities. Many people regard boating as a form of recreation, NOT transportation. Bill Gossard, Executive Director of NTBS, asserted during Monday's General Session that NTBS does, indeed have jurisdiction over our use of our boats; no authority was cited.

Tuesday's session brought a discussion and demonstration of inflatable PFD's. By the way, any change in rules or standards takes a minimum of two years to wend its way through the regulatory process! {Several "hybrid" devices are now under CG review. One has already been approved. Hybrids are a combination of inflatable and-or

other means of flotation.}

NBF P/P Al Simon electrified the meeting with a brand-new inflatable device. Worn as a small packet on the waist with its own belt, it will inflate when manually activated or automatically when submersed in water. Al pleaded for inclusion of this device in the, soon to be approved, hybrid devices, and for use of the device, even without approval, by that large segment of the boating public who have found any currently available device too uncomfortable for extended wear.

On another note, the Simon-Brown team partnership paid off during the discussion by obtaining agreement that, when no discharge zones are declared, type I and II MSD's will be grandfathered for their useful life ... A real triumph!

Finally, I want to extend my sincere wishes to all our readers for a happy holiday season. And to our many members, a particular word of thanks for your continued support. As always ... PLEASE HELP US TO HELP YOU! Margot.

### HELP NEEDED.

In some locations, the US Power Squadron and the USCG Auxiliary are having problems finding classroom space for their public Boating Safety Courses because officials are requiring large liability insurance limits, that are cost prohibitive, for use of public buildings. If your Club can make space available for this important activity, please contact the nearest District officials.

### WEST COAST REPORTER-Jill E. Brogge

If we've learned anything in the last year it is that one person can indeed make a difference.

The Oregon Legislature considered several bills that would have an impact on boating for many years to come. There were several that our organization, The Oregon Federation of Boaters, felt would be beneficial in the long run for recreational boating and one of great concern.

A bill that would remove the immunity of boat owners from law suit if a guest were injured while on board because of some accident. The current law requires that gross negligence be present for a guest passenger to sue. The bill that was introduced by the Oregon Trial Lawyers Association would have changed that to: "ordinary negligence." Our organization, and the Oregon Pilot's Association, saw that the removal of the requirement to prove gross negligence would open the door for a number of frivolous lawsuits that could be brought against boat owners and owners of small planes.

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### OFFICERS

President-Margot J. Brown  
3217 Fiji Lane, Alameda CA 94501

Vice-President-Lewis R. Ahner  
9125 S. Mayfield Ave., Oaklawn IL 60453

Sec./Tres.-James D. Finch  
Finch Road Box 226A, Alamo TN 38001

Lookout Editor-James B. Webster  
4850 Sherwood Ave, Chesapeake Beach MD 20732

Immediate Past President-Dr. Burton Jay 4959 Cresita Drive,  
San Diego CA 92115

### EXECUTIVE COMMITTEE

William C. "Jack" Lucey  
519 Greenwood Ave., Fairhope AL 36532

P/P Barry Golomb  
62B Yorkshire Dr., Cranbury, NJ 08512-4725

William A. Heider Sr.  
P.O. Box 1054, Erie PA 16512

Jill E. Brogge  
4157 Arnold N.E., Keizer OR 97303

Don Diemert  
3810 So. 312th Street, Auburn WA 98001

We felt there were several reasons to oppose the proposed legislation, not the least of which is the fact the operation of a recreational watercraft or a small private plane often introduces an environment that is much less predictable than, for instance, operating a motor vehicle on the highways.

Boats and planes operate within a much less predictable environment and the potential of an accident happening may be much higher than is possible on the roads. Several factors can add to that potential, the lack of lines to follow on the right and left side of the conveyance, the fact that wind and weather can play a very powerful role in navigation through the air or water.

Our two organizations attended several hearings and provided a great deal of testimony in opposition to the bill. When it came down to the final vote we managed to see the bill fail on a tie vote in the Senate.

Since the trial lawyers have presented this same bill for the last four sessions we feel fairly sure that they will bring it up in the next session of the Legislature and we're certain we'll have to fight it again next year.

Another of the bills that was proposed is one we very much favor. The bill as originally written would require an observer of at least 12 years of age whenever a person on water skis, or some other object, was being towed behind a boat. It would require the use of a skier-down flag whenever a water skier is in the water and it would change the hours of operating while water-skiing to from sunrise to sunset.

The House decided that it made no sense to require an observer of a particular age since, there was no age restriction on the actual operation of the motorboat, so they amended the bill to remove any mention of age - or competency. Then, because of testimony by some couples who said it would be impossible for them to participate in their chosen form of recreation if they had to have a third party with them, the House amended the bill to allow people to ski without an observer during weekdays.

The bill passed to the Senate where some of the members of the conference committee while considering the questions of safety, and the law requiring a boat operator to maintain a proper forward lookout, decided that it is impossible for the operator of a boat to do that and maintain the skier in sight with a curved mirror.

Since Oregon shares border waters with Washington and Idaho where there are water ski observer laws the Senate committee also felt it necessary to have continuity between the states. They changed the bill back to the

original form of requiring a full-time observer at all times - the rationale being it made no sense to split the week into days on and days off. The amended bill passed the floor of the Senate but the House refused to concur with the Senate amendments causing a conference committee to be selected to address the ramifications of the bill.

We attended the hearing conducted by the conference committee and the same arguments were again put forward. The senator whose brother had been severely injured in a ski accident, because there was no observer, was very eloquent and convincing. The other senator who is a marine patrol officer, abstained from voting on the bill but cited very convincing arguments from his vantage point of protecting the public safety and enforcing the laws and the conference committee decided to pass the bill out with the Senate amendments.

Oregon's new water ski law is one that is very similar to our neighboring states and will serve the public well because it requires a full-time observer and the use of the skier-down flag and eliminates any doubt about the hours of operation making it legal to waterski only between the hours of sunrise to sunset.

Our point is that, as we watched these two bills work their way through the legislature we learned that it is very difficult to change something once it is law, and in spite of that, one person can very definitely make a difference. We found that it required a great deal of commitment and time and the phrase "it's not over until the fat lady sings" took on a whole new meaning. We watched committee hearings where one side appeared to have the upper hand, but lost its momentum and eventually failed because the people didn't remain vigilant.

As boat owners and operators we have learned that while operating our vessels we must maintain that constant vigilance while we're on the water. We want to say to you that we have to get into the habit of maintaining constant vigilance to protect our interests even when we're not in our boats and on the water. That constant vigilance can take the form of attending classes to strengthen our knowledge of boating and navigational laws and rules. It may mean that we attend workshops to help us learn troubleshooting for our diesel engines or sail rigs. It may mean that we participate in a first aid class so we know how to administer CPR if we're ever put into a position where someone needs that kind of help and we're the only one handy. It may mean that we join a local organization such as a yacht club or waterski club or a national organization such as, The National Boating

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Federation so that we can become familiar with others who, like us, are concerned about protecting our chosen recreational pursuit.

Our boating activity is very important to us. It provides relaxation and a sense of peace when we listen to the wind in the rigging. We used to think that we could trust someone else take care of the laws and rules that we would have to abide by and that we could have confidence that legislators would not enact rules and laws that would take away our ability to enjoy our boating activity.

With the Federal debt reconciliation act of 1990 that saw the imposition of the Recreational Vessel Fee and the luxury tax that nearly decimated the recreational boat building industry in this country, we began to see how important it is for us all to become involved. The other thing we realized is that it doesn't take much. We don't have to get righteously indignant about every bill that is proposed. We only have to track the bills that affect recreational boating and about which we feel strongly.

### NEW WETLANDS BILLS & POLICIES.

The Clinton Administration issued its new wetlands' policy in August. It includes a mitigation banking program requiring developers to create new wetlands to replace those lost to construction. Regulatory programs are required to be efficient, fair and predictable. Also they are to be implemented without unnecessary impacts on private property and the regulated public.

There now are three wetlands bills under consideration in Congress: two in the Senate, one developed by the Senate, and one by the Administration. The third bill was developed in the House. The House bill is jointly sponsored by House Agriculture Chairman de la Garza (D-TX) and Merchant Marine and Fisheries Chairman Gerry Studds (D-MA). All three are designed to clear up the definition of wetlands left in disarray by the change in administrations, and aimed at leveling the playing field between environmentalists and landowners. As these bills are debated we will try to inform you on the differences and details.

**THE COAST GUARD REMINDS US TO ALWAYS USE AT LEAST TWO DIFFERENT NAVIGATION AIDS TO DETERMINE OUR POSITION.**

### FROM AROUND THE STATES

\* Metropolitan Washington DC Council of Governments has issued a plan to ban recreational boating on those weekdays that are predicted to have high ozone levels. The plan is currently undergoing public hearings. The calculated ozone production from boating exhaust fumes is believed by critics to be too high, primarily, because the number of recreational boats actually in use during weekdays is substantially lower than the number predicted by EPA methodology.

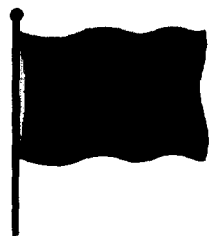
\* A Washington DC federal judge has rejected NOAA's arguments for limiting jet-ski use in Monterey Marine Sanctuary (see Sep./Oct., 93; LOOKOUT). The judge found NOAA's restriction to be "arbitrary and capricious." John Donaldson of Yamaha Boats says, "The ruling sets a precedent for the entire marine industry, because it says the Government cannot arbitrarily prohibit use of certain types of boats in a Marine Sanctuary, without proving they are harmful."

\* Florida is developing anchoring guidelines to impose some uniformity on the local governments who have been enforcing local restrictions, which are nonuniform and sometimes completely illegal.

\* Governor Wilson of California signed into law, effective immediately, a bill that provides that clubs, organized for pleasure, recreation and other non-profitable purposes; may be exempt from taxation if: (1) substantially all of their activities are for the non-profitable purposes; and (2) no part of the clubs net earning inures to any private shareholder. Source: National Clubs Assn.

\* Thirty-six States submitted 45 applications totaling \$12.8 million in grant applications to the Fish & Wildlife Service in response to the Clean Vessel Act of 1992. (see May./Jun., 93; LOOKOUT). This effort will develop more Vessel Pump-out stations. Award announcements will be made soon.

\* The Delaware program of mandatory boater education, modeled after the Maryland law, is effective January 1994, and requires all boaters born after 1 January 1978, to carry a non-revocable boating education certificate for completion of safety instruction and testing. CG licensed Captains and Pilots are exempted. The certificate must be shown on request to marine police.



**NATIONAL BOATING FEDERATION**

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